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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,219	01/12/2005	Jurgen Bucher	VO-706	8653

7590 04/30/2007
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EXAMINER

HOLMES, REX R

ART UNIT	PAPER NUMBER
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3762

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/521,219

Applicant(s)

BUCHER, JURGEN

Examiner

Rex Holmes

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/29/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 1, the applicant states that there is an air tight connection (3, 6, 7) in lines 4-5 and a closure (3, 6, 7) in line 7, having a seal (7, 7.1; 6.1) in lines 7-8 and a an outside seal (7, 7.1) in line 11. The applicant sets forth an air tight connection, a closure, and a seal and discloses that they are all of the same element (3, 6, 7 or 7.1). It is vague and unclear if they are all the same element or different elements.
4. Claim 1 recites the limitation "which have flat contact areas" in lines 2 and 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. The term is inferentially included. It is unclear if the applicant is positively reciting the element. It is suggested to first set forth that the claim has this element before it is used.
5. Regarding claim 2, the applicant states that the seal (7, 7.1) has a seal ring (7) and a connection (7.1). It is vague and unclear if the seal, the seal ring, and the connection are the same element or different elements.
6. Claim 3 recite the limitation "the two contact areas" in lines 4 and 7-8 of claim. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3762

7. Claim 4 recites the limitation " the two contact areas" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 5 recites the limitation " the two contact areas" in lines 3 and 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 8 is vague as it is unclear how the at least one intermediate layer is integrated for an electrical electrode test.

10. Claim 10 recites the limitation "the seal ring arrangement" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 10 recites the limitation "the part" in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 10 recites the limitation " the two contact areas" in lines 2 and 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 10 recites the limitations "part of a foil covering" in line 2 of the claim and "forms at least on insulating layer" in line 3 of the claim. There is insufficient antecedent basis for these limitations in the claim. These terms are inferentially included. It is unclear if the applicant is positively reciting the elements. It is suggested to first set forth that the claims have these elements before they are used.

14. Claim 12 recites the limitation "the at least on intermediate layer" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3762

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. Claims 1 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Nova et al. (6,965,799 hereinafter "Nova").

17. Regarding claim 1, Nova discloses an electrode pack (e.g. Figs. 5-6) having two flat electrodes (405, 425) with gel on the electrode body (415, 435) and connecting cables (445). Nova further discloses that the electrodes are connected to each other with a sealed release liner that can be peeled away to separate the two electrodes (e.g. Col. 2, ll. 28-35). It is further shown that the connecting cables are outside of the sealed release liner (Fig. 5).

18. Regarding claim 11, Nova discloses that the electrodes are offset creating a surface to pull the electrodes apart (e.g. Fig. 5).

19. Regarding claim 12, Nova discloses that the sealing liner extends the full length of both electrodes creating an intermediate layer (e.g. Fig. 5).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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21. Claims 2-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nova.

22. Nova discloses Regarding claim 1, Nova discloses an electrode pack (e.g. Figs. 5-6) having two flat electrodes (405, 425) with gel on the electrode body (415, 435) and connecting cables (445). Nova further discloses that the contact areas are congruent with the electrode bodies and are connected by the sealing liner (e.g. Figs. 5-6). Nova discloses that the electrodes are offset creating a surface to pull the electrodes apart (e.g. Fig. 5). Nova also discloses that the sealing liner extends the full length of both electrodes creating an intermediate layer that is integrated and that acts as an insulator (e.g. Fig. 5).

23. Regarding claims 2-9 and 13, the claimed invention as discussed in detail above, but does not expressly disclose the seal ring arrangement with a film to produce an insulated layer. It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the sealing liner as taught by Nova with the seal ring and a film combined to form an insulating layer, because the Applicant has not disclosed that ring with a film provides an advantage, is used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with sealing liner as taught by Nova, because it provides a protective surface that protects the electrodes from inadvertent adhesion and premature deterioration and since it appears to be an arbitrary design consideration which fails to patentably distinguish over Nova.

Therefore, it would have been an obvious matter of design choice to modify the sealing liner of Nova to obtain the invention as specified in the claim(s).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rex Holmes whose telephone number is 571-272-8827. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rex Holmes
Examiner
Art Unit 3762



George Evanisko
Primary Examiner
Art Unit 3762

4/26/7